

Date: July 12, 2018  
To: Weber County Board of County Commissioners  
From: Sean Wilkinson, AICP *SW*  
Department Director, Community Development

Agenda Date: July 17, 2018

Subject: **Request for Approval of the First Reading of an Ordinance Amendment Related to Surplus Property Disposal and Moving Title 2, Chapter 9, Article X to a New Chapter Within Title 2.**

Documents: - First Reading of Ordinance (Exhibit A)

---

**Summary:**

The Community Development Department and Purchasing Division of the Clerk/Auditor's Office are requesting amendments to Title 2, Chapter 9, Article X (Disposal of Surplus Property) of the Weber County Code of Ordinances. The proposed amendments are summarized below:

- A clarification which requires the County to receive fair market value in exchange for the sale of real property was added (Section 4).
- A new method was created for distributing funds received from the sale of a parcel which was struck off to the County at tax sale (Section 5).
- A new method was created for determining if, how, why, and to whom the County will sell property. A definition for preferential interest in property was also created. (Section 6).
- At the request of the Purchasing Division, Title 2, Chapter 9, Article X of the Weber County Code of Ordinances will be removed from Chapter 9 and become Chapter 21 in Title 2.

These proposed amendments were prepared by Courtlan Erickson after discussions with the Community Development Department, Treasurer's Office, and Clerk/Auditor's Office. All of the reviewers are in agreement with the proposed amendments.

**Recommendation:**

Approve the first reading of ordinance amendments as proposed.

# Exhibit A

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 2-9-371 OF THE WEBER COUNTY CODE OF ORDINANCES, RELATED TO SURPLUS PROPERTY DISPOSAL, AND MOVING TITLE 2, CHAPTER 9, ARTICLE X TO A NEW CHAPTER WITHIN TITLE 2**

**WHEREAS**, Weber County sometimes acquires possession of parcels of real property through the annual property tax sale or other means; and

**WHEREAS**, some parcels owned by the County have little to no value to anyone other than a possessory interest holder or an adjacent property owner; and

**WHEREAS**, in many cases, it is in the best interest of the County and its taxpayers for the County to dispose of surplus real property by selling it to a possessory interest holder or an adjacent property owner, to minimize potential liability to the County and to ensure that the property is owned by the person who is most likely to put it to good use, pay taxes on it, and benefit from it; and

**WHEREAS**, the Community and Economic Development Department, the Treasurer's Office, and the Clerk/Auditor's Office have sought clearer guidelines for disposing of surplus real property and distributing the funds received following disposal; and

**WHEREAS**, it is proposed that the County Code provisions for disposal of surplus property be removed from the Purchasing chapter and placed in their own chapter of the Code;

**NOW THEREFORE**, the Board of County Commissioners of Weber County ordains as follows:

- I. Section 2-9-371 of the Weber County Code of Ordinances shall be amended to read as follows:

**Sec. 2-9-371. - Real property.**

The community and economic development department director or the director's designee, at the direction of the board of county commissioners, is responsible for disposing of surplus real property owned by the county. Surplus real property shall be disposed of in accordance with the provisions of this chapter, supplemented by this section.

- (1) Real property may be disposed of by public auction, by listing with a licensed realtor, by negotiation, by trade, by sealed bid, or as otherwise approved by the board of county commissioners after the property is declared surplus by the board of county commissioners.

(2) Notwithstanding any other provision of this section, all sales are contingent on approval by the board of county commissioners, which has authority to refuse any or all offers or bids for real property. The community and economic development department director or the director's designee shall ensure that all potential buyers understand that only the board of county commissioners has authority to approve an offer or a sale.

(3) The county surveyor's office shall verify and approve the legal description of each parcel of surplus property before the county offers it for sale or accepts an offer to purchase it.

(4) The county must receive at least fair market value in exchange for surplus real property, unless otherwise allowed by law. However, the board of county commissioners may set a higher minimum price for the property. Fair market value shall be determined as follows:

a. If the assessed value of the property as determined by the records of the county assessor's office is less than or equal to \$10,000.00, then the county may use the assessed value as the fair market value. Alternatively, the county may seek an updated statement of fair market value from any qualified professional.

b. If the assessed value is greater than \$10,000.00, then an opinion of value letter by a licensed real estate broker or a certified appraisal from an appraiser, showing fair market value, shall be procured before the property is declared surplus and sold. An opinion of value letter or appraisal shall not be required if one has been provided for the surplus property within the past 24 months.

(5) Surplus real property that came into county ownership because no buyer purchased the property at a tax sale shall be disposed of as stated in this section, with the following additional requirements:

a. The community and economic development department shall keep a record of the costs incurred by the county in administering and supervising the property while it is owned by the county. Money received from the sale of the property shall first be applied to these costs.

b. Any remaining money shall be apportioned to state and other taxing entities with an interest in the taxes last levied upon the property in proportion to their respective interests in the taxes, as follows:

1. If the remaining money is insufficient to pay all taxes, interest, penalties, and costs, then the money shall be allocated first to taxes, and then to interest, penalties, and costs, in that order.

2. If the remaining money is sufficient to pay all taxes, interest, penalties, and costs, then the original and subsequent taxes, and 40% of the interest, penalties, and costs of sale received shall be apportioned to the taxing entities interested, in proportion to their respective taxes, and the balance shall be paid to the county.

c. Any remaining money shall be paid to the state treasurer and treated as unclaimed property under state law.

(6) For purposes of this subsection, a preferential interest in a parcel of surplus real property is a possessory interest in the parcel or an ownership interest in an adjacent parcel. The community and economic development department director or the director's designee may determine that a parcel of surplus real property is not an economically viable unit of property to anyone other than a preferential interest holder, based on factors such as parcel history, size, shape, access, and zoning. Alternatively, the director or designee may determine that the sale of the property to anyone other than a preferential interest holder would create a nuisance or detrimentally affect or cloud the existing interest in the property and could unreasonably diminish the value of that interest. If the director or designee makes either of these determinations, then the following requirements apply to the disposition of the property:

a. If, for good cause and based on objective factors, the director or designee determines that one particular preferential interest holder should receive the first opportunity to purchase the property, then the county may offer to sell the property to that preferential interest holder. If no sale occurs, then the director or designee may do any of the following:

1. offer to sell the property to another particular preferential interest holder, based on the criteria in the previous paragraph;

2. decide not to sell the property at that time; or

3. give other preferential interest holders the opportunity to purchase the property, as described in subpart (6)(b).

b. If subpart (6)(a) does not apply, then before disposing of the property, the director or designee shall attempt to notify all known preferential interest holders that the property has been declared surplus and is available for purchase. The notice shall describe the desired terms of a

sale of the property and shall provide instructions, including a reasonable deadline, for preferential interest holders to make an offer to purchase the property.

1. The county will normally give first priority to a person with a possessory interest in the surplus property. If only one possessory interest holder offers at least the minimum selling price and agrees to the terms set by the county, then the director or designee shall forward the offer to the board of county commissioners with a recommendation on whether or not to accept the offer. If more than one possessory interest holder makes such an offer, then the director or designee shall forward the highest offer with a recommendation.

2. The county will normally give next priority to an adjacent property owner. If no possessory interest holder purchases the property under this subsection, then the rules from the previous paragraph apply to adjacent property owners.

c. If no preferential interest holder purchases the property under this subsection, then the county may proceed as it would with any other parcel of surplus property.

- II. Following the amendment of Section 2-9-371, all of Title 2, Chapter 9, Article X of the Weber County Code of Ordinances shall be removed from Chapter 9 of Title 2 and shall be moved to a new Chapter 21 of Title 2, entitled “Disposal of Surplus Property.” The sections shall be renumbered as follows:

Current section	New section
2-9-370	2-21-1
2-9-371	2-21-2
2-9-372	2-21-3
2-9-373	2-21-4
2-9-374	2-21-5

- III. This Ordinance shall be effective 15 days after publication in the Standard Examiner.

PASSED, ADOPTED, AND A SYNOPSIS ORDERED PUBLISHED this \_\_\_\_\_ day of  
\_\_\_\_\_ 2018.

BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY

By \_\_\_\_\_  
James H. "Jim" Harvey, Chair

Commissioner Ebert voted \_\_\_\_\_  
Commissioner Harvey voted \_\_\_\_\_  
Commissioner Jenkins voted \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Ricky Hatch, CPA  
Weber County Clerk/Auditor